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October 7, 2009

To: Parties and Movants County of Maui and Stand for Water
(See Service List, attached)

From: Michael Azama *M. Azama*
Commission Counsel

Re: Docket No. 2009-0048, Molokai Public Utilities, Inc. ("MPU") – General
Rate Case, July 1, 2009 to June 30, 2010 Test Year

Enclosed is a copy of West Molokai Association's response, filed on October 7, 2009,
to PUC-IR-101.

MA:laa

Enclosure

c: William W. Milks, Esq., counsel for West Molokai Association (w/o enclosure)

SERVICE LIST

Docket No. 2009-0048: Parties and Movants

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October 7, 2009

Hawaii Public Utilities Commission
Attention: Michael Azama, Commission Counsel
465 South King St., Suite 103
Honolulu, HI 96813

Subject: Application of Molokai Public Utilities, Inc. to Increase Its Water Rates, Fees
and Charges (HPC Docket 2009-0048)

Mr. Chairman and Commissioners,

By correspondence dated September 15, 2009, Commission Counsel Michael Azama requested clarification regarding certain matters in West Molokai Association's Motion to Intervene, filed on September 11, 2009. The request for information was referenced as "PUC-IR-101."

The undersigned counsel for WMA was out of the country from September 16, 2009 until October 1, 2009. The undersigned has consulted with his client to confirm facts. The attached Response is intended as a part of the record in HPUC Docket 2009-0048.

Respectfully Submitted,



William W. Milks
Counsel for West Molokai Association

Enclosure (1)

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PUBLIC UTILITIES
COMMISSION

FILED

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

In the Matter of the Application of)	DOCKET NO. 2009-0048
)	
MOLOKAI PUBLIC UTILITIES, INC.)	WEST MOLOKAI ASSOCIATION'S
)	RESPONSE TO PUC-IR-101.
For review and approval of rate increases;)	
revised rate schedules; and revised rules.)	
_____)	

In response to PUC-Information Request 101, directed to West Molokai Association (WMA) and "Stand For Water," the following is submitted on behalf of WMA.

PUC-IR-101 Clearly and specifically explain whether (1) any members of Stand For Water are also members of WMA and vice versa; and (2) Stand For Water's interests overlap with or are duplicative of WMA's interest, and vice versa.

WMA's
Response to
PUC-IR-101 WMA is formally organized and publicly registered as a Hawaii non-profit entity. In accord with covenants which run with the land within the service area of Molokai Public Utilities, Inc. ("MPU"),

private land owners are obligated to be members of West Molokai Association. The organization has in place approved by-laws which govern the Association's operations. The Association's directors are elected by the members of WMA. The Board of Directors oversees the conduct of the business of the Association. The most recent membership meeting was held in April, 2009.

WMA's Membership is comprised of the owners of over 800 parcels of land or condominium units . Subdivisions within MPU's service area are commonly referred to as Moana Makani, Papohaku Ranchlands, and residential parcels surrounding Kaluakoi's golf course (i.e. fairway and golfview lots). In addition, there are three condominium properties comprised of Ke Nani Kai, Kaluakoi Villas/Kekuhi Beach Resorts, and Paniolo Hale.

WMA cannot state with precision whether any of its members are members of Stand For Water, principally because "Stand For Water," has not disclosed its organization papers, its members and the residences of its members. It appears from the few members of Stand For Water whose names have been publicly disclosed in PUC filings, that there are some members of WMA. This occurs by those individuals' ownership interests in real estate situated within MPU's service area.

Of significant import to the Commission, all owners of real estate interests comprising WMA's membership are within MPU's designated service area. In fact, other than the one public entity (i.e. County of Maui) and the Molokai Properties, Ltd.'s related entities doing business in MPU's service area, the entirety of MPU's customer base is WMA's membership.

With regard to the Commission's inquiry as to whether WMA's interests overlap with or are duplicative of Stand For Water's interests, there unquestionably are common interests. Upon a review of Stand For Water's Motion to Intervene, it appears that its principal interest is the reliable delivery of potable water at reasonable rates and charges. This interest is common to both WMA and Stand For Water. In addition, and due to the fact that some parcels of land within MPU's service area require landowners to be actively engaged in agriculture, WMA has an interest in affordable water for agricultural purposes, be it potable or non-potable water.

WMA has not moved to intervene in the docket initiated by Wai'Ola O Molokai's filing. Stand For Water has moved to intervene in that proceeding as well.

The one area addressed by WMA in its Motion to Intervene which was not addressed in Stand For Water's motion is the issue of the Commission's appointment of a receiver to manage the operations of MPU. It is WMA's position that MPU's failures to date in operating its water utility facilities raises the issue as to the propriety of the Commission appointing a receiver to manage aspects of MPU's operations, going forward. At this stage, WMA has not urged the Commission to appoint a receiver; rather, WMA has merely requested the Commission to place MPU on notice that the evidentiary record developed in examining the reasonableness of rates proposed by MPU could possibly be used as a portion of the evidentiary record needed to later justify the appointment of a receiver, if later deemed appropriate by the Commission. If and when a receiver is appointed to oversee some or all of MPU's operations, MPU would not be relieved of its fundamental continuing legal obligation to provide an essential utility service.